

REMARKS

A. Restriction of Claims:

The examiner has required confirmation of a provisional election of Group I, claims 1-7. In response, Applicants confirm election of the Group I claims drawn to the method which, include claims 1-7 with traverse. Claims 8-14 stand withdrawn as not elected. Applicants reserve the right to file a divisional application for these claims in the event they are not rejoined.

B. Rejection of Claims 1-7 under 35 U.S.C. § 103(a):

In the Office Action, the Examiner rejected claims 1-7 as unpatentable for obviousness over Babler, U.S. Patent No. 6,278,016.

In setting forth this rejection, the examiner acknowledges failure of Babler to disclose the exact precursor compound but, stated that the variation in the R groups would have been obvious to one skilled in the art “in view of the close structural similarity between the claimed compounds and the Babler phenyl ester compound.” (Office Action, 09/05/08, p. 11) The examiner concludes that Applicants’ method “is prima facie obvious over Babler because adjacent homologs are prima facie obvious.” (Office Action, 09/05/08, p. 11.) Applicants respectfully disagree with examiner’s conclusion, and traverse the rejection.

Babler, U.S. Patent No. 6,278,016 teaches a method for preparing prenyl ester from isoprene. This prenyl ester can then be converted to an alcohol. Prenyl alcohol is an intermediate for citral, a compound having utility in unspecified ways “in the flavor and fragrance industries.” (Col. 1, lines 9-11.) There is, however, no disclosed utility for prenyl alcohol itself as a fragrance precursor.

The reported decisions cited by the examiner establish the possibility of obviousness as a basis for rejection for structurally similar compounds (for cases that involved claiming of compounds themselves) not methods of using such compounds in a method having specified steps.

Applicants’ claimed method involves treatment of a stable formulation containing a fragrance precursor releases fragrant aldehydes or ketones. Babler does not disclose a ketone, an aldehyde or that prenyl alcohol is itself, a fragrance or that it could be used as a component in the claimed formulation for release upon treatment.

Further, Applicants’ claimed method involves (i) adding fragrance precursor to a composition and (ii) treating the formulation so as to release organoleptically active compounds.

In the Application of:
Marcus EH et al.
Serial No.: 10/575,781

Nowhere does Babler disclose or suggest these method steps or that the fragrance precursor can be released upon treatment of the stable formulation.

Babler does not disclose the method of treating a formulation such that a compound of formula I disintegrates and a fragrance is released, as recited in the instant amended claim 1. Babler discloses a complicated reaction scheme to obtain a citral from prenyl alcohol. Accordingly, Babler cannot make the instant invention obvious.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. Prompt and favorable examination on the merits is requested. An early action to that effect is courteously solicited. If the filing fee submitted herewith is insufficient or excessive, please charge or credit our deposit account number 18-2220.

Respectfully submitted,
ROYLANCE, ABRAMS, BERDO & GOODMAN, LLP



Dated: December 5, 2008

Jason Lee DeFrancesco
Registration No. 59,468

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 659-9076